

REMARKS

Claims 1, 3-9, 11-17, 22-25, 28-34 and 39 remain for prosecution in the present application.

All elected claims of the present application have been rejected as being anticipated by Wright 4,717,050, anticipated by Rousselet 6,575,330, or obvious over the combination of Wright and Rousselet. Reconsideration is respectfully requested.

Independent Claim 1 and Dependent Claims 3-9

Amended independent claim 1 is directed to a closure and container package that includes a container having a finish with a mouth opening through which product is both filled into and dispensed from the container. A closure includes a base mounted on the container finish and having an opening aligned with the mouth opening of the container finish. A lid is connected to the base by a hinge, with the base, the lid and the hinge together being of one-piece integrally molded construction. The lid is connected in such a way as to pivot between an open position in which the lid is spaced from the opening in the base and a closed position in which the lid is adjacent to the base. A fitment is removably mounted to the lid and has a dispensing opening. There are means on the fitment, and on the finish or closure base, for permanently securing the fitment to the finish or the base such that first movement of the lid from the open to the closed position, after filling the container through the mouth and base openings, removes the fitment from mounting on the lid and permanently secures the fitment to the finish or the base. In this way, movement of the lid to the open position after such first movement leaves the fitment

secured to the finish or the base and permits dispensing of product from the package through the dispensing opening in the fitment.

In the embodiment of application FIGS. 1-3, for example, the fitment 46 is removably mounted on the lid 38. After product is placed in the container by the fill nozzle 56 in FIG. 2, the lid 38 is closed over the closure base 24 and the finish 28 so that the fitment 46 is permanently secured to the neck finish, specifically by interengagement of the beads 54,62 in this embodiment. ("Permanent" securement of the fitment to the neck finish is, of course, in the absence of extraordinary measures such as prying the fitment off of the container neck finish with a tool such as a screwdriver.) The embodiments of FIGS. 4-10 operate in a similar manner. The concept of removably mounting a fitment on the lid, in such a way that first closure of the lid after filling the package permanently secures the fitment to the container finish or the closure base thereafter to provide the dispensing opening, is entirely new in the art. As described in the application text, the advantage of the invention is that the entire package may be shipped to a filler in the assembled condition, as distinguished from having to supply the closure and/or the fitment separately, permitting the filler to fill the package through the relatively large opening of the container mouth and then close the lid to secure the fitment and thereby provide a dispensing opening.

The Wright reference discloses a package having dispensing orifices 26,34 of differing sizes. That is, a top lid 16 is pivoted to an intermediate lid 14, which in turn is pivoted to a base 12. Base 12 has a relatively large dispensing opening 26, while intermediate lid 14 has a smaller dispensing opening 34. With respect to amended claim 1, it is noted that the base 24 is not formed as a one-piece integrally molded construction

with either of the lids 16, 14. Nor is it clear, even with the impermissible benefit of hindsight, how such a construction could be implemented given the three-piece construction of Wright.

Furthermore, Wright does not disclose or suggest a fitment removably mounted on a lid and which becomes permanently secured to the base or the container finish when the lid is first moved from an open position to a closed position. For example, if it is attempted to interpret the intermediate lid 14 of Wright as a “fitment,” the intermediate lid 14 does not become permanently secured to the base 12 when the top lid 16 is initially moved from an open position to a closed position. Furthermore, the intermediate lid 14 in Wright is mounted to the upper lid 16 (i.e., not “removably mounted”) in exactly the same way both before and after the initial closing of upper lid 16. In other words, the intermediate lid 14 in Wright is not removed from mounting to lid 16 and permanently secured to base 12.

Rousselet discloses a one-piece dispensing closure that includes a base 2 and an integrally molded lid 3. There is no fitment or the like removably mounted on lid 3 that becomes permanently secured to base 2 when the lid is first moved from the open position to the closed position. Although not directly relevant to claim 1, the Examiner suggests in the Office Action that the shut-off flap 20 in Rousselet is “an elastomeric dispensing valve.” The term “elastomer” is defined in *Webster’s 9th New Collegiate Dictionary*, for example, as “any of various elastic substances resembling rubber.” The shut-off flap 20 is integrally molded with base 2. The only material example provided in Rousselet is “polypropylene” (column 6, line 60), which is not an “elastomer” as that term is understood in the art.

Thus, amended claim 1 clearly is allowable over Wright and Rousselet, considered either individually or in combination.

Dependent claims 3-9 are allowable both by reason of dependency from claim 1, which is itself allowable for reasons set forth above, and because of the additional novel limitations set forth therein. For example, claim 3 recites that the fitment includes an elastomeric dispensing valve in which the dispensing opening is disposed. Such a valve 118 is illustrated, for example, in the embodiments of FIGS. 6-10. Neither Wright nor Rousselet discloses or suggests a “fitment” as recited in claim 1, as discussed above. Furthermore, neither Wright nor Rousselet discloses or suggests an elastomeric dispensing valve. The shut-off flap 20 in Rousselet is not “elastomeric” as that term is understood in the art.

Dependent claim 4 recites that the fitment has an annular wall with a circumferential bead to engage the mouth opening or the opening in the closure base to secure the fitment to the finish or the base. Neither Wright nor Rousselet suggests such a construction. If the wall 58 in Wright FIG. 4, for example, is considered to be an annular wall on a “fitment,” there is no circumferential bead on the wall 58. It is again noted that there is no suggestion of permanent securement of the intermediate lid 14 to the base 12 in the Wright disclosure.

Dependent claim 5 recites that the container finish includes a circumferential bead over which the bead on the fitment is received during first movement of the lid to a closed position. As noted above, such an arrangement is illustrated in the embodiment of application FIGS. 1-3, with the fitment 46 having the bead 54 that snaps over the bead 62 on the container finish 28. Dependent claim 6 recites, as an alternative to claim 5, that the

closure base has an annular wall over which the bead on the fitment is received during first movement of the lid to the closed position. Dependent claim 7 additionally recites that the annular wall on the closure base is in plug-sealing engagement with the mouth opening of the container. Such a construction is illustrated in application FIG. 7. Neither Wright nor Rousselet discloses or suggests the recitations of claims 5-7.

Dependent claim 8 recites that the fitment has an open dispensing opening, and the lid has a spud on which the dispensing opening on the fitment is removably mounted. The spud is adapted to plug-seal the dispensing opening after the first movement of the lid - i.e., when the fitment becomes permanently attached to the finish or the base. Referring again to the Wright disclosure, and assuming again that the intermediate lid 14 is interpreted as a "fitment," the intermediate lid is mounted by means of the hinge structure 40-46 and is not "removably mounted" on the plug 66 on the underside of upper lid 16.

Dependent claim 9 recites that the lid has an annular wall, and that the fitment has an annular wall initially coupled to the annular wall on the lid. First movement of the lid to the closed position secures the fitment to the closure base or the container finish, and subsequent opening of the lid releases coupling between the lid and the fitment. There is no corresponding disclosure or suggestion in either Wright or Rousselet. (The correction at claim 9, line 4 is clerical only.)

Independent Claim 11 and Dependent Claims 12-17

Amended independent claim 11 is directed to a package that includes a container having a finish with a mouth opening through which product is both filled into and dispensed from the container. A closure includes a base mounted on the finish and a lid

coupled to the base to pivot between an open position and a closed position. The base, lid and hinge together are of one-piece integrally molded construction. A fitment is removably carried by the lid and has a dispensing opening. The fitment includes a snap bead for engaging the container finish or the closure base to secure the fitment to one of the finish and the base. In this way, the package is adapted to be filled with product thorough the closure base opening and the mouth opening of the container with the lid in the open position and the fitment carried by the lid. The lid may thereafter be moved to the closed position to remove the fitment from the lid, secure the bead on the fitment to the container finish or the closure base and position the dispensing opening on the fitment in alignment with the mouth opening. Movement of the lid thereafter to the open position leaves the fitment secured by the bead to the finish or base and permits dispensing of product through the dispensing opening in the fitment.

As noted above in connection with claim 1, Wright does not disclose or suggest a closure that includes a base, a lid and a hinge of one-piece integrally molded construction. Nor would it have been obvious to modify Wright to provide such a construction, in view of Rousselet or otherwise. Furthermore, and again attempting to interpret intermediate lid 14 in Wright as a "fitment," there is no disclosure or suggestion in Wright (or Rousselet) of providing a snap bead, around wall 58 or otherwise, for snap-engaging the finish or the closure base to secure the fitment to the finish or the base.

Dependent claims 12-17 are allowable both by reason of dependency from claim 11, which is itself allowable for reasons discussed in detail above, and because of the additional novel limitations set forth therein. Claims 12-17 are allowable for reasons set forth above in connection with claims 8 and 3-7 respectively.

Independent Claim 22 and Dependent Claims 23-25

Amended independent claim 22 is directed to a package that includes a container having a finish with a mouth opening through which product is both filled into and dispensed from the container. A closure includes a base mounted to the finish and a lid coupled to the base by a hinge. The base, lid and hinge together are of one-piece integrally molded construction. A fitment has an elastomeric dispensing valve, a first annular wall removably coupled to an annular wall on the lid, and a second annular wall including a snap bead for engaging one of the container finish and the closure base to secure the fitment and the dispensing valve to the finish or base after filling the container.

As previously noted, Wright does not disclose a closure having a base, hinge and lid of one-piece integrally molded construction, and it would not have been obvious to provide the three-piece construction of Wright as a unitary construction, in view of Rousselet or otherwise. Furthermore, neither Wright nor Rousselet discloses or suggests a fitment having an “elastomeric dispensing valve.” Indeed, neither Wright nor Rousselet discloses an elastomeric dispensing valve. Furthermore, neither Wright nor Rousselet discloses or suggests that a fitment, having an elastomeric dispensing valve or otherwise, could or should have a first annular wall removably coupling the fitment to an annular wall on the lid, or a second annular wall including a snap bead for engaging the container finish or the closure base. In Wright, the plug 66 apparently is solid, and the intermediate lid 14 is not removably mounted to the plug 66 in any event. As previously discussed in detail, the annular wall 58 of the intermediate lid 14 in Wright does not have a snap bead or the like for engaging the dispensing opening 26 in the closure base. Thus, claim 22 is neither

anticipated by or obvious in view of Wright and Rousselet, considered either individually or in combination.

Dependant claims 23-25 are allowable both by reason of dependency from claim 22, which is itself allowable for reasons set forth above, and because of the additional novel limitations set forth therein, which also have been discussed previously.

Independent Claim 28 and Dependent Claims 29-34

Amended independent claim 28 is directed to a dispensing closure that includes a base and a lid, with the base, the lid and an interconnecting hinge together being of one-piece integrally molded construction. A fitment is removably mounted on the lid and has a dispensing opening. The fitment includes a snap bead for engaging a container finish or the closure base permanently to secure the fitment to the finish or the base. As previously noted in detail in connection with claim 1, Wright and Rousselet do not disclose or suggest a base, lid and hinge of integrally molded construction having a fitment removably mounted on the lid. Nor does Wright and/or Rousselet disclose or suggest a fitment having a snap bead for engaging a container finish or a closure base permanently to secure the fitment to the finish or the base. Thus, independent claim 28, together with dependent claims 29-34, are allowable over the cited references.

Independent Claim 39

New independent claim 39 is based upon a combination of original claims 1 and 10, and is directed to the embodiment of application FIGS. 11-12. Claim 39 recites a package having a container and a closure. The closure includes a base and a lid connected by a hinge to the base, with the base, lid and hinge together being of one-piece

integrally molded construction. The lid includes means for permanent securement to the base over the opening in the base, permanently closing the opening in the base, upon first movement of the lid to the closed position with respect to the base. The container finish and closure base include means for removing the closure from the finish to permit the dispensing of product through the container mouth.

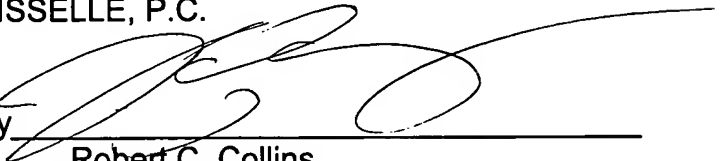
Neither Wright nor Rousselet discloses or suggests means on a lid for permanent securement to the base of the closure so that the entire closure has to be removed for dispensing product. Neither the top lid 16 nor the intermediate lid 14 in Wright becomes permanently secured to each other or to base 14 permanently closing the opening 26 in the base 12 of that reference. Nor does lid 3 become permanently secured to base 2 in Rousselet in accordance with the disclosure of that reference. Thus, the subject matter of new claim 39 is neither disclosed nor suggested in the cited references.

It therefore is believed and respectfully submitted that all claims 1, 3-9, 11-17, 22-25, 28-34 and 39 are allowable at this time, and favorable action is respectfully solicited.

Please charge any fees associated with this submission to Account No. 15-0875 (Owens-Illinois).

Respectfully submitted,

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